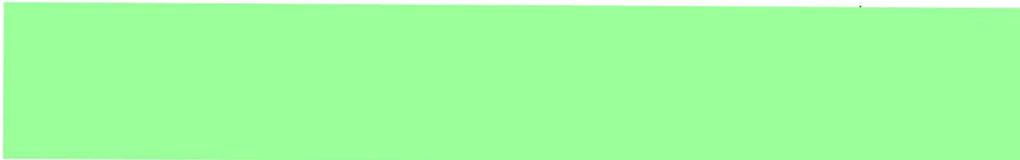




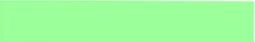
U.S. Citizenship
and Immigration
Services

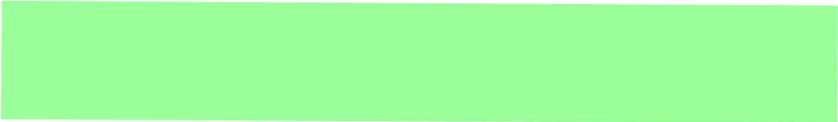
(b)(6)



DATE: **JAN 25 2013**

Office: CALIFORNIA SERVICE CENTER

FILE: 

IN RE: Petitioner: 

Beneficiary:

PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,



Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will reject the appeal.

The petitioner is a church. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), to perform services as a mission leader. The director determined that the petitioner had not established that the beneficiary has the requisite two years of continuous, qualifying work experience immediately preceding the filing of the petition. The director additionally found that the petitioner had not established how it intends to compensate the beneficiary.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) states that, for purposes of appeals, certifications, and reopening or reconsideration, "affected party" (in addition to U.S. Citizenship and Immigration Services (USCIS)) means the person or entity with legal standing in a proceeding. The USCIS regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1) states that an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, USCIS will not refund any filing fee it has accepted.

Here, the party that filed the appeal was [REDACTED] an attorney who claims to represent the petitioner. The petition was denied on June 29, 2012 and the appeal was filed on July 27, 2012. Accompanying the Form I-290B, Notice of Appeal, [REDACTED] submitted a Form G-28, Notice of Entry of Appearance as Attorney or Representative, dated March 25, 2012, which authorized his representation of the petitioner regarding the Form I-360 petition. However, the regulation at 8 C.F.R. § 292.4(a) requires that a **new** G-28 must be submitted on appeal to the AAO "to authorize representation in order for the appearance to be recognized by DHS." Similar instructions are listed on the Forms I-290B and G-28.

On December 18, 2012, the AAO faxed a letter to [REDACTED] which informed him of the regulation and stated:

You signed the Form I-290B as the petitioner's attorney. The record, however, does not contain a **new** and properly executed Form G-28, Notice of Entry of Appearance as Attorney or Representative, signed by both you and the petitioner.

In accordance with the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 292.4(a) as well as the instructions to the Form I-290B, a "new [Form G-28] must be filed with an appeal filed with the Administrative Appeals Office." This regulation applies to all appeals filed on or after March 4, 2010. *See* 75 Fed. Reg. 5225 (Feb. 2, 2010).

Without a new, fully executed Form G-28 authorizing you to represent the petitioner, the AAO cannot consider the appeal to have been properly filed. As required by 8 C.F.R. § 103.3(a)(2)(v)(A)(2) and its subclauses, you must submit a duly executed Form G-28 signed by you and the petitioner within **fifteen (15) calendar days** of the date of this notice. Failure to submit this required document will result in the rejection of the appeal as improperly filed, under the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1). (Emphasis in original).

In response, [REDACTED] did not submit a new, fully executed Form G-28, but instead submitted a photocopy of a May 16, 2011 Form G-28, originally submitted with the Form I-360 petition to authorize his representation of the petitioner in relation to that form. In Part 1.a., in the space provided to "List the form number(s)" to which the attorney's appearance relates, "I-290B" was handwritten on the photocopy next to the previously typed "I-360."

Pursuant to 8 C.F.R. § 292.4(a), the AAO cannot recognize [REDACTED] as authorized to represent the petitioner on appeal.

The party that filed the appeal is not an affected party with legal standing in the proceeding. Therefore, the AAO must reject the appeal as improperly filed.

ORDER: The appeal is rejected.